

AMENDED IN SENATE AUGUST 5, 2008

AMENDED IN SENATE JUNE 16, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2470

Introduced by Assembly Member Karnette
(Coauthor: Assembly Member Lieu)
(Coauthor: Senator Romero)

February 21, 2008

An act to amend Sections 626.10 and 12556 of the Penal Code, relating to weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2470, as amended, Karnette. Crimes: weapons.

Existing law, subject to exception, provides that any person who brings or possesses, among other things, any instrument that expels a metallic projectile such as a BB or pellet through the force of air pressure, CO₂ pressure, or spring action, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

This bill would expand the above prohibition on weapons to make it a misdemeanor to bring or possess a less lethal weapon or stun gun, as defined, upon the grounds of or within a public or private college or university.

Existing law makes it a crime for a person to openly display or expose any imitation firearm in a public place, except in specified circumstances. Existing law defines, for purposes of this provision, “public place” to mean an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings.

This bill would incorporate additional changes to Section 12556 of the Penal Code proposed by AB 352, to be operative only under circumstances specified in the bill.

This bill would expand this definition to include a public or private college or university. By changing the scope of existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 626.10 of the Penal Code is amended to
2 read:
3 626.10. (a) Any person, except a duly appointed peace officer
4 as defined in Chapter 4.5 (commencing with Section 830) of Title
5 3 of Part 2, a full-time paid peace officer of another state or the
6 federal government who is carrying out official duties while in
7 this state, a person summoned by any officer to assist in making
8 arrests or preserving the peace while the person is actually engaged
9 in assisting any officer, or a member of the military forces of this
10 state or the United States who is engaged in the performance of
11 his or her duties, who brings or possesses any dirk, dagger, ice
12 pick, knife having a blade longer than 2 ½ inches, folding knife
13 with a blade that locks into place, a razor with an unguarded blade,
14 a taser, or a stun gun, as defined in subdivision (a) of Section 244.5,
15 any instrument that expels a metallic projectile such as a BB or a
16 pellet, through the force of air pressure, CO₂ pressure, or spring

1 action, or any spot marker gun, upon the grounds of, or within,
2 any public or private school providing instruction in kindergarten
3 or any of grades 1 to 12, inclusive, is guilty of a public offense,
4 punishable by imprisonment in a county jail not exceeding one
5 year, or by imprisonment in the state prison.

6 (b) Any person, except a duly appointed peace officer as defined
7 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
8 2, a full-time paid peace officer of another state or the federal
9 government who is carrying out official duties while in this state,
10 a person summoned by any officer to assist in making arrests or
11 preserving the peace while the person is actually engaged in
12 assisting any officer, or a member of the military forces of this
13 state or the United States who is engaged in the performance of
14 his or her duties, who brings or possesses any dirk, dagger, ice
15 pick, or knife having a fixed blade longer than 2 ½ inches upon
16 the grounds of, or within, any private university, the University of
17 California, the California State University, or the California
18 Community Colleges is guilty of a public offense, punishable by
19 imprisonment in a county jail not exceeding one year, or by
20 imprisonment in the state prison.

21 (c) Subdivisions (a) and (b) do not apply to any person who
22 brings or possesses a knife having a blade longer than 2 ½ inches
23 or a razor with an unguarded blade upon the grounds of, or within,
24 a public or private school providing instruction in kindergarten or
25 any of grades 1 to 12, inclusive, or any private university, state
26 university, or community college at the direction of a faculty
27 member of the private university, state university, or community
28 college, or a certificated or classified employee of the school for
29 use in a private university, state university, community college,
30 or school-sponsored activity or class.

31 (d) Subdivisions (a) and (b) do not apply to any person who
32 brings or possesses an ice pick, a knife having a blade longer than
33 2 ½ inches, or a razor with an unguarded blade upon the grounds
34 of, or within, a public or private school providing instruction in
35 kindergarten or any of grades 1 to 12, inclusive, or any private
36 university, state university, or community college for a lawful
37 purpose within the scope of the person's employment.

38 (e) Subdivision (b) does not apply to any person who brings or
39 possesses an ice pick or a knife having a fixed blade longer than
40 2 ½ inches upon the grounds of, or within, any private university,

1 state university, or community college for lawful use in or around
2 a residence or residential facility located upon those grounds or
3 for lawful use in food preparation or consumption.

4 (f) Subdivision (a) does not apply to any person who brings an
5 instrument that expels a metallic projectile such as a BB or a pellet,
6 through the force of air pressure, CO₂ pressure, or spring action,
7 or any spot marker gun upon the grounds of, or within, a public
8 or private school providing instruction in kindergarten or any of
9 grades 1 to 12, inclusive, if the person has the written permission
10 of the school principal or his or her designee.

11 (g) Any certificated or classified employee or school peace
12 officer of a public or private school providing instruction in
13 kindergarten or any of grades 1 to 12, inclusive, may seize any of
14 the weapons described in subdivision (a), and any certificated or
15 classified employee or school peace officer of any private
16 university, state university, or community college may seize any
17 of the weapons described in subdivision (b), from the possession
18 of any person upon the grounds of, or within, the school if he or
19 she knows, or has reasonable cause to know, the person is
20 prohibited from bringing or possessing the weapon upon the
21 grounds of, or within, the school.

22 (h) As used in this section, “dirk” or “dagger” means a knife or
23 other instrument with or without a handguard that is capable of
24 ready use as a stabbing weapon that may inflict great bodily injury
25 or death.

26 (i) Any person who, without the written permission of the
27 college or university president or chancellor or his or her designee,
28 brings or possesses a less lethal weapon, as defined in Section
29 12601, or a stun gun, as defined in Section 12650, upon the grounds
30 of or within, a public or private college or university campus is
31 guilty of a misdemeanor.

32 SEC. 2. Section 12556 of the Penal Code is amended to read:

33 12556. (a) No person may openly display or expose any
34 imitation firearm, as defined in Section 12550, in a public place.

35 (b) Violation of this section, except as provided in subdivision
36 (c), is an infraction punishable by a fine of one hundred dollars
37 (\$100) for the first offense, and three hundred dollars (\$300) for
38 a second offense.

39 (c) A third or subsequent violation of this section is punishable
40 as a misdemeanor.

(d) Subdivision (a) shall not apply to the following, when the imitation firearm is:

(1) Packaged or concealed so that it is not subject to public viewing.

(2) Displayed or exposed in the course of commerce, including commercial film or video productions, or for service, repair, or restoration of the imitation firearm.

(3) Used in a theatrical production, a motion picture, video, television, or stage production.

(4) Used in conjunction with a certified or regulated sporting event or competition.

(5) Used in conjunction with lawful hunting, or lawful pest control activities.

(6) Used or possessed at certified or regulated public or private shooting ranges.

(7) Used at fairs, exhibitions, expositions, or other similar activities for which a permit has been obtained from a local or state government.

(8) Used in military, civil defense, or civic activities, including flag ceremonies, color guards, parades, award presentations, historical reenactments, and memorials.

(9) Used for public displays authorized by public or private schools or displays that are part of a museum collection.

(10) Used in parades, ceremonies, or other similar activities for which a permit has been obtained from a local or state government.

(11) Displayed on a wall plaque or in a presentation case.

(12) Used in areas where the discharge of a firearm is lawful.

(13) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

(e) For purposes of this section, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots,

1 automobiles, whether moving or not, and buildings open to the
2 general public, including those that serve food or drink, or provide
3 entertainment, and the doorways and entrances to buildings or
4 dwellings. For purposes of this section, the term “public place”
5 also means a public or private college or university.

6 (f) Nothing in this section shall be construed to preclude
7 prosecution for a violation of Section 171b, 171.5, or 626.10.

8 *SEC. 2.5. Section 12556 of the Penal Code is amended to read:*

9 12556. (a) No person may openly display or expose any
10 imitation firearm, as defined in Section 12550, in a public place.

11 (b) Violation of this section, except as provided in subdivision
12 (c), is an infraction punishable by a fine of one hundred dollars
13 (\$100) for the first offense, and three hundred dollars (\$300) for
14 a second offense.

15 (c) A third or subsequent violation of this section is punishable
16 as a misdemeanor.

17 (d) Subdivision (a) shall not apply to the following, when the
18 imitation firearm is:

19 (1) Packaged or concealed so that it is not subject to public
20 viewing.

21 (2) Displayed or exposed in the course of commerce, including
22 commercial film or video productions, or for service, repair, or
23 restoration of the imitation firearm.

24 (3) Used in a theatrical production, a motion picture, video,
25 television, or stage production.

26 (4) Used in conjunction with a certified or regulated sporting
27 event or competition.

28 (5) Used in conjunction with lawful hunting, or lawful pest
29 control activities.

30 (6) Used or possessed at certified or regulated public or private
31 shooting ranges.

32 (7) Used at fairs, exhibitions, expositions, or other similar
33 activities for which a permit has been obtained from a local or
34 state government.

35 (8) Used in military, civil defense, or civic activities, including
36 flag ceremonies, color guards, parades, award presentations,
37 historical reenactments, and memorials.

38 (9) Used for public displays authorized by public or private
39 schools or displays that are part of a museum collection.

1 (10) Used in parades, ceremonies, or other similar activities for
2 which a permit has been obtained from a local or state government.

3 (11) Displayed on a wall plaque or in a presentation case.

4 (12) Used in areas where the discharge of a firearm is lawful.

5 (13) A device where the entire exterior surface of the device is
6 white, bright red, bright orange, bright yellow, bright green, bright
7 blue, bright pink, or bright purple, either singly or as the
8 predominant color in combination with other colors in any pattern,
9 or where the entire device is constructed of transparent or
10 translucent materials which permits unmistakable observation of
11 the device's complete contents. Merely having an orange tip as
12 provided in federal law and regulations does not satisfy this
13 requirement. The entire surface must be colored or transparent or
14 translucent.

15 (e) For purposes of this section, the term "public place" means
16 an area open to the public and includes streets, sidewalks, bridges,
17 alleys, plazas, parks, driveways, front yards, parking lots,
18 automobiles, whether moving or not, and buildings open to the
19 general public, including those that serve food or drink, or provide
20 entertainment, and the doorways and entrances to buildings or
21 dwellings, *and shall include public schools and a public or private*
22 *college or university.*

23 (f) Nothing in this section shall be construed to preclude
24 prosecution for a violation of Section 171b, 171.5, or 626.10.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

34 SEC. 4. *Section 2.5 of this bill incorporates amendments to*
35 *Section 12556 of the Penal Code proposed by both this bill and*
36 *AB 352. It shall only become operative if (1) both bills are enacted*
37 *and become effective on or before January 1, 2009, (2) each bill*
38 *amends Section 12556 of the Penal Code, and (3) this bill is*

- 1 *enacted after AB 352, in which case Section 2 of this bill shall not*
- 2 *become operative.*

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